

## **REMARKS**

### **Revocation of Power of Attorney**

Applicant is enclosing herewith a Revocation of Power of Attorney and Appointment of New Attorney naming BRUCE H. TROXELL as attorney of record in this patent application. It is requested that all further correspondence regarding this matter be forwarded to TROXELL LAW OFFICE PLLC at the address listed on the enclosed form. A CHANGE OF ADDRESS FORM is also being submitted herewith.

### **Claim Rejections**

Claims 1-3 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1 and 3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheng (U.S. 6,386,362) in view of Chang (U.S. 6,682,027). Claims 1 and 3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang in view of Cheng.

Claim 2 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, as set forth in the outstanding Office Action and to include all of the limitations of the base claim and any intervening claims.

### **Drawings**

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, Applicant must assume that the drawings are acceptable as filed.

### **New Claims**

By this Amendment, Applicant has canceled claims 1-3 and has added new claims 4-6 to this application. It is believed that the subject matter of new claim 5 is commensurate in scope with original claim 2. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims are directed toward a golf club bag comprising: a bag (27) having a top opening (20) and a bottom (26); a pivotal section (21) located on a top of the bag; two symmetrical supporting arms (22) pivotal between open and closed positions and having a first end pivotally connected to the pivotal section; an embedding element (24) connected to the bottom of the bag; two steel cables (23), one of the two steel cables is connected at a first end to the first end of one of the two symmetrical supporting arms and at a second end to the embedding element; at least one socket (25) pivotally connected to the bottom of the bag; at least one upholding post (251) movable between upright and tilted positions relative to the bottom of the bag, one of the at least one upholding post is connected at a first end to the top of the bag and at a second end to each of the at least one socket; and a fixing plate (231) connected to center sections of the two steel cables, wherein, when the at least one upholding post is located in the upright position, the two steel cables move the two symmetrical supporting arms into the closed position, and, when the at least one upholding post is located in the tilted position, the two steel cables move the two symmetrical supporting arms into the open position.

Other embodiments of the present invention include: each of the at least one socket includes a blocking element (28) limiting a pivotal movement of one of the at least one upholding post; and the bag includes a lower opening (271) in a periphery thereof, the embedding element is located on an interior of the bag, and the two symmetrical supporting arms extend through the lower opening.

The cited reference to Cheng teaches a golf bag (1), a base seat (2) having front section (20) and a rear section (30), support rods (12) connected to fixing members of the rear section of the base and a top of the bag, and a U-shaped resilient member (64) connected between two support legs (662) and a connecting member of the front section.

Cheng does not teach two steel cables; one of the two steel cables is connected at a first end to the first end of one of the two symmetrical supporting arms and at a second end to the embedding element; at least one socket pivotally connected to the bottom of the bag; at least one upholding post movable between upright and tilted positions relative to the bottom of the bag, one of the at least one upholding post is connected at a first end to the top of the bag and at a second end

to each of the at least one socket; nor does Cheng teach each of the at least one socket includes a blocking element limiting a pivotal movement of one of the at least one upholding post.

The cited reference to Chang teaches base seat of a golf bag and is cited for teaching a rear socket (50) pivotally connected to a rear of a rear jaw section (15) of a base board (10).

Chang does not teach two symmetrical supporting arms pivotal between open and closed positions and having a first end pivotally connected to the pivotal section; an embedding element connected to the bottom of the bag; two steel cables; one of the two steel cables is connected at a first end to the first end of one of the two symmetrical supporting arms and at a second end to the embedding element; a fixing plate connected to center sections of the two steel cables; nor does Chang teach each of the at least one socket includes a blocking element limiting a pivotal movement of one of the at least one upholding post.

Even if the teachings of Cheng and Chang were combined, as suggested by the Examiner, the resultant combination does not suggest: two steel cables; one of the two steel cables is connected at a first end to the first end of one of the two symmetrical supporting arms and at a second end to the embedding element; nor does the combination suggest each of the at least one socket includes a blocking element limiting a pivotal movement of one of the at least one upholding post.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first

made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Cheng or Chang that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Cheng nor Chang disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.

**Summary**

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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By:

  
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